



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,429	09/12/2003	Michael F. Harris	HAR-001	4876

7590
Rodney L. Sparks
4931 Lake Tree Lane
Crozet, VA 22932

06/27/2007

EXAMINER

MITCHELL, TEENA KAY

ART UNIT	PAPER NUMBER
----------	--------------

3771

MAIL DATE	DELIVERY MODE
-----------	---------------

06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,429

Applicant(s)

HARRIS, MICHAEL F.

Examiner

Teena Mitchell

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

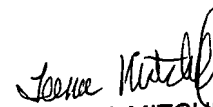
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.


TEENA MITCHELL
PRIMARY EXAMINER

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris (Pilot Study to Assess the Efficacy of Intermittent Hyperbaric Nitrogen Treatment of Acquired Immunodeficiency Syndrome) in view of /Risley et.al. (7,198,045).

Harris discloses hyperbaric oxygenation for increasing a ratio of CD4/CD 8 lymphocytes, reducing viral load (Abstract, Narrative) and the use of nitric oxide gas. The difference between Harris and claim 1 is the selecting one or more time-periods for exposing the patient to the selected gas(es) and pressure(s). Risley in a hyperbaric chamber teaches time periods selected for patients in the hyperbaric chamber (Col. 4,

Art Unit: 3771

lines 48-57). Therefore it would have been obvious for one of ordinary skill in the art at the time the invention was made to select time periods for the user as taught by Risley. Also it would have been obvious that no set time period or gas pressure for everyone would work the same, as different people have different needs, such as a younger person may need less or more time in treatment, an older person may require less time in treatment to receive the same affects as the younger person. A health care provider would take each patient and evaluate their needs to set up a treatment schedule for time and pressure in the hyperbaric chamber. The remaining steps would have been obvious because they would have resulted from the use of the hyperbaric chamber of Harris/Risley.

Regarding claim 2, Harris discloses other gases (NARRATIVE).

Regarding claim 3, Harris does not specifically state wherein one or more pressures selected is greater than one atmosphere, however it would be inherent that the pressure would be greater than one atmosphere because the device is a hyperbaric chamber.

Regarding claims 4-6, note rejection of claim 1 above.

Regarding claim 7, Harris does not disclose the step of creating a chart for the person with listing of times and gas based upon the patient's condition. One of ordinary skill in the art would consider the step obvious if not inherent, in order for a medical person to note progress or the condition of the patient getting worse a chart would be made for each person based upon their needs to have time and gas treatment set up by the medical practitioner.

Regarding claim 8, Risley teaches a hyperbaric chamber larger enough for more than one person (Col. 3, lines 60-67). Therefore it would have been obvious to one of ordinary skill in the art to have more than one person in the chamber as such chambers are well known in the art as taught by Risely.

Regarding claim 9, note rejection of claim 1 above.

Regarding claim 10, note claim 1 above. It would have been obvious for one of ordinary skill in the art to arrive at the percentage of gases in the chamber based upon how many patients' are in the chamber and their medical conditions requiring treatment.

Regarding claim 11, note rejection of claim 1 above.

Regarding claim 12, note rejection of claim 3 above.

Regarding claim 13, note rejection of claim 8.

Regarding claim 14, such step is inherent to one of ordinary skill in the art that a person must decompress based upon standard decompression tables because decompression is needed so the patient does not get ill from being in the hyperbaric chamber at a selected pressure for an extended period of time.

Regarding claims 15-18, note rejections of claims 1 and 10 above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of art is cited to show hyperbaric chambers: 6,443,148; A BRIEF REVIEW OF HYPERBARIC OXYGEN FOR STROKE


Art Unit: 3771

REHABILITATION, pages 1-5; HBO (Hyperbaric Oxygen) A to Z pages 1-5; 6,572,594; 5,810,795; 5,776,048; 5,503,143.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena Mitchell whose telephone number is (571) 272-4798. The examiner can normally be reached on Monday-Friday however the examiner is on a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Teena Mitchell
Primary Examiner
Art Unit 3771
June 20, 2007


TKM